

**CLARK COUNTY PLANNING COMMISSION
MINUTES OF PUBLIC HEARING
THURSDAY, JULY 13, 2006**

City Hall Council Chambers
210 East 13th Street
Vancouver, WA

6:30 p.m.

CALL TO ORDER

The public hearing of the Clark County Planning Commission was called to order at 6:30 p.m. by Vice Chair, Dick Deleissegues. The hearing was held at the City Hall Council Chambers, 210 East 13th Street, Vancouver, Washington.

ROLL CALL

Planning Commission Present: Dick Deleissegues, Vice Chair; Ron Barca, Milada Allen, and George Vartanian.

Planning Commission Absent: Jeff Wriston, Chair; and Jada Rupley.

Staff Present: Oliver Orjiako, Senior Planner; Rich Lowry, Chief Deputy Prosecuting Attorney; Jeff Niten, Planner; and Sonja Wiser, Administrative Assistant.

GENERAL & NEW BUSINESS

A. Approval of Agenda for July 13, 2006

The agenda for July 13, 2006, was approved as distributed.

B. Communications from the Public

None.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION

A. AMEND THE CLARK COUNTY SPECIAL USES AND STANDARDS

A draft ordinance amending CCC 40.260 and CCC 40.230.010 -1 to include Opiate Substitution Treatment Facilities as CCC 40.260.165. The location of Opiate Substitution Treatment Facilities is of significant concern to the Board of County Commissioners. This new code is designed to regulate the location of Opiate Substitution Treatment Facilities. The purpose of the Hearing is to review criteria for the location siting of Opiate Substitution Treatment Facilities.

Staff Contact: Jeff Niten (360) 397-2375, Ext. 4909

DELEISSEGUES: We'll move ahead to the hearing items. Let's see, the first one would be to amend the Clark County special uses and standards. Draft ordinance to include opiate substitution treatment facilities. The location of opiate substitution treatment facilities is of significant concern to the Board of County Commissioners. The purpose of the hearing is to review the criteria for the location siting of opiate substitution treatment facilities. So do we have a staff report?

NITEN: Good evening, Commissioners, Jeff Niten, Clark County Long-Range Planning. I'll go ahead and present the staff report tonight, bits and pieces. The purpose of the amendment is to amend the Unified Development Code to establish siting criteria for the placement of opiate substitution treatment facilities. The Growth Management Act defines these facilities as essential public facilities and as such no local zoning ordinances can preclude the siting of these facilities. In 2005 the Clark County Commissioners established the Clark County Community Advisory Council to forward community recommendations relating to the siting of these types of facilities. Staff received the recommendations from the committee and began work on a draft ordinance earlier this year.

The staff met with several stakeholders in the process including representatives from the Health Department, from DASA, which is the Department of Alcohol and Substance Abuse for the State, and CRC Health Group, Incorporated who sited a facility in late 2004, early 2005 in the Salmon Creek area. While we were drafting this ordinance staff learned that the State DASA had decided to amend their Washington Administrative Code and pretty happy to find out that a lot of the recommendations from the community advisory committee were incorporated into the proposed WAC amendments. WAC had a public hearing on June 23rd of this year and adopted those revised code amendments so we were -- cut down our ordinance quite a bit, our draft ordinance. A lot of the things that the community advisory committee wanted to do were already included so we didn't believe that it was in the best interests of any of the stakeholders to have the applicant or the service provider do these things twice.

The ordinance allows siting of these facilities as a Type 2 which is a review and approval, it requires it is an administrative decision that can be appealed to the Hearing Examiner, but the reason we chose Type 2 was so people in the neighborhood will be notified that this type of facility is proposed in their area. We included a 1,000-foot buffer in the ordinance from private and public parks, private and public schools, other types, I'm sorry, other opiate substitution treatment facilities that are already in the area, which the map I have here tonight depicts, there are, sorry for the small scale, I had to get countywide on there so it's a little bit tough to, tough to see, but they're -- the WAC basically says that you cannot preclude the siting by zoning ordinance and that's what this map is intended to show, that there are quite a few commercially zoned areas in the county that are not within the buffer, are not within the 1,000-foot buffer, for any of these uses and that there's an ample supply of commercially designated property to allow the siting of these facilities.

DASA did bring up a couple of concerns, one of which is the 1,000-foot buffer requirement, they wanted to make sure that there was enough land which we've shown

pretty clearly here. The second is that, pull up their letter here, that if a school or a park moved within the 1,000-foot buffer after one of these uses is established would it then become a legally nonconforming use, the answer to that is no, there's nothing in this code that would make it a nonconforming use after it was established should one of these buffered uses come into, come into place and were close by. And that's pretty much the conclusion of the staff report. I'd be happy if you have any to answer any questions that you have.

DELEISSEGUES: Thanks, Jeff. Any questions of staff? Anyone wish to speak in favor of this ordinance in the audience? If not, we'll go to a sign-up sheet. Dennis Malmer. Could you give us your name and address.

PUBLIC TESTIMONY

MALMER: My name is Dennis Malmer, my address is Post Office Box 45330, Olympia, Washington. I work for the DSHS, Division Of Alcohol Substance Abuse certification section, our section is responsible for certifying agencies in this state including OTPs, we also are Federally recognized accreditation body.

HOLLEY: I'm having a hard time hearing you, could you speak a little bit more into the mic?

MALMER: Oh, you bet.

HOLLEY: Thank you.

MALMER: We're responsible for not only certifying OTPs in this state but we're also a Federally recognized accreditation body. Each state also has one Federally recognized state methadone authority and I also fulfill that role for DSHS-DASA. We're real pleased and excited that we were able to work collaboratively with the Clark County Council and various providers down here, Cleve Thompson who works with as our County alcohol drug coordinator, of course we've had a lot of conversations with Jeff too and appreciate that collaboration and the opportunity to come down and present these couple of issues to you tonight.

We think we've got a good plan. We think we've got the WAC in place now, it's done, we're comfortable, we only had those, just those couple of issues. If you have any other questions or comments about siting, certification or accreditation on OTPs, I can answer those, otherwise we're comfortable with what we've already submitted to you in writing and I won't go through and read that because that, you know, that's your, your information and you have that now. So if you have any questions, other questions, about that siting accreditation piece, I'd be happy to answer that, otherwise thank you for the opportunity to come down tonight and enter the information into the record.

DELEISSEGUES: Okay. Thank you. Any questions of Mr. Malmer?

BARCA: Based on the document that you submitted, or your agency submitted, I'm only seeing the concern around the 1,000-foot buffer. Was there other concerns that I haven't --

MALMER: The second was on Page 4 and that just had to do with if -- as Jeff pointed out if one of the entities located within that buffer after we had accredited or certified or sited would that, would that put them into a nonconforming use and Jeff said --

BARCA: So it was still the issue about the buffer but --

MALMER: Yes. Yes.

BARCA: -- the aftermath as opposed to --

MALMER: Right.

BARCA: -- trying to find some place that would allow the buffer to begin with?

MALMER: Right. So those are just the two issues.

BARCA: Okay.

DELEISSEGUES: Any other questions? Thank you, Mr. Malmer. Bud Van Cleve.

VAN CLEVE: I'll pass.

DELEISSEGUES: Okay. Thank you. Any other people in the audience that may wish to testify on this matter? Okay. Will you step to the podium and give us your name and address.

THOMPSON: My name is Cleve Thompson and I manage Alcohol and Drug Services for Clark County Department of Community Services. I was also a member of for how many months did we meet, Bud, 12 months on the citizens advisory committee twice a month for 12 months so I know you all meet a lot as well, but it was an interesting task. Excuse me. I have -- I'm supportive of what is being proposed and I think that the work that DASA has done on helping make sure or assure in the Washington Administrative Codes that the communication issues are really addressed in the community so that we make sure that people know in the community what's going to come into their neighborhoods or their areas. I talk to people over and over again about the fact that if people know what's happening, they may not like it but they're a lot less angry if they have an opportunity to express their concerns and try to work with stakeholders to mitigate circumstances.

I am a bit concerned about the distance requirement in the ordinance and I'm concerned about that really for in the future, because in the future we're going to have these kinds of necessary medical facilities in the community, we're going to have the need to site other alcohol and drug services, we're going to have the need to site

mental health services and a number of other things that are fairly controversial in the public's eye and I just want to make sure that the Commission is really taking in consideration the possibility that this may be a bit discriminatory against this particular population and so I wanted to at least say that generally I'm supportive.

I know that the citizens advisory council tried to steer clear of setting a specific distance requirement just for those reasons and, you know, we obviously looked at multiple sites and discussed the distance issue multiple times and many people -- I mean I'll give you one example and it's not on here and Jeff Niten removed it, but initially there was the issue that you should have distance 1,000 feet from a day-care center, but you have to keep in mind that people that are in addiction treatment programs also have the need for day-care and so in fact within these opiate substitution programs in the United States, many of them have their own day-care centers.

So those are some of the issues that I'm concerned about and I would think -- I just want us to be certain about this to make sure that we maybe aren't doing something discriminatory against this certain population that might catch up to us later on, very supportive of having the idea that we need to address the proximity of anything that the public may feel is dangerous in the proximity of schools and parks and those kinds of things, and obviously the result of the advisory committee was the CRC Health Corporation site out on 117th and Highway 99. So, you know, keeping that in mind I'm just making that testimony to try to say that I hope that this doesn't come back at some point -- if we approve it this way that it doesn't come back at some point in the future to be discussed that it might not have been a good thing to put a specific distance in there. Thanks very much.

DELEISSEGUES: Okay. Just any questions?

VARTANIAN: Yeah, I think I have one. You both have an issue with the 1,000 feet or a concern about the 1,000 feet --

THOMPSON: Yes.

VARTANIAN: -- do you have a number in mind or would you consider -- I mean is it something between zero and 1,000 feet or is it nothing or --

THOMPSON: You know, in my mind it should be taken on consideration on each individual site and the prox, I think you should discuss all the issues about the proximity to other locations which might be affected, but I think that in the discussion which is really required in the new Washington Administrative Code on siting these locations it gives a lot of opportunity to address those issues and to look at mitigating factors or ways to come to an agreement to allow something to be in a particular site. And, you know, let's say it's 991 feet from the park, you know, then is it is that a great enough distance and I think we get into those kinds of things and my concern is that in the future we're going to have to locate places, and we've done that and I know that there are some on the horizon to be relocated, so consequently we're going -- this is

actually going to get tested I think in the fairly near future and so those are that's why I'm concerned about this.

And the other thing I'm concerned about is whether or not somebody would challenge this and say if you're doing this for this particular client population that needs medical services if that would apply to other siting of other medical services in the community and I don't think that that would be the intention of the ordinance or anything that we would want to do, so that's, that's why I bring this up. I mean I think that we need to think about that so.

VARTANIAN: Can staff, sorry if you've told me this before and I've forgotten, what do we know where the 1,000 feet came from?

NITEN: It was suggested from actually the business licensing portion of the code Title 5 for the 1,000 feet came from the separation of adult entertainment facilities for that type of controversial use.

ALLEN: Separation of what?

THOMPSON: He's really talking about porn shops, adult movie theaters --

NITEN: It was more looked at --

THOMPSON: -- that kind of facility.

NITEN: Yeah. It was more looked at as controversial uses and this is what we came up with and that's how we decided on this number in the draft ordinance.

DELEISSEGUES: I have a question. Are you --

VARTANIAN: Yeah, I'm sorry. Yes. Thank you.

DELEISSEGUES: Did the advisory committee agree on the 1,000 feet?

THOMPSON: Not to, not -- I don't believe so, no. No. My recollection is that we did not put a specific distance in the advisory committee recommendations.

BARCA: Jeff, is that your recollection as well?

NITEN: I was not a member of the committee but I do have their minutes and their final recommendation there was no specific number. We looked at a number for separation of uses that the reason we looked at the adult entertainment facilities is because it was controversial. We also looked at a number that, that would follow the Washington Administrative Code guidelines that says local zoning ordinances won't preclude the siting of these types of facilities, essential public facilities, and after looking at the map the commercial zoning along with the buffers that are shown today, there is more than enough land to site these types of facilities with a 1,000-foot buffer.

Now were it to be reduced that's certainly at the Commission's discretion. I can do that before forwarding a recommendation to the Board, that's, you know, we just wanted to bring you something so to start the discussion.

ALLEN: What do other facilities elsewhere do as far as the day-care is? I mean he pointed it out that these people also have children so?

NITEN: We had day-care in the ordinance initially. We had several other things. After talking with Cleve and after talking with representatives from DASA, we were educated quite a bit about these things, it never, it never occurred to me that a day-care would be co-located but we found out that just isn't the case and that's why we removed it from the ordinance.

THOMPSON: Yeah, and I think that -- I mean on Jeff's behalf I think that they did a good job of looking at the things that we recommended to them to adjust, I just, you know, the reason I talk about the distance issue is because I think it does have ramifications in the future and I think it seems that we have plenty of space to do this now and that but I -- but who knows what the, what the future will bring as far as somebody saying if they try to site one and there's a big outcry against siting this type of facility, then the pressure is on to, you know, the pressure is on as far as what community concerns are for essential public facilities. And they have to be sited, so if you've restricted yourself, then you have less space to even try to site, site a location and that's the concern.

VARTANIAN: Would a code that stipulates distance shall be established depending on the situation be manageable or --

THOMPSON: I don't know. I don't have a good answer.

VARTANIAN: Can we administer something like that?

NITEN: I think during the review and approval process which it's required to go into under in the draft ordinance, I think it would likely be manageable; however, then you run into the problem of --

VARTANIAN: I thought we would.

DELEISSEGUES: Any other questions?

LOWRY: Can I take a shot at that.

ALLEN: He's going to answer that question now.

LOWRY: Rich Lowry, County Prosecutor's Office. It would not be manageable. There are two ways to draft this kind of an ordinance. One is to make it, the approval, an entirely discretionary process which you can do either by making it a Type 3 conditional use permit or a use subject to review and approval with very vague

approval standards, you throw the approving responsible official, usually a Hearing Examiner, into an impossible position where he has these vague standards and overwhelming public opposition testimony but very little objective data to render findings with they tend to be very ugly public hearings and very difficult to resolve. The other way to address it is to adopt arbitrary standards that may not fit every situation but do address the problem in a way that allows the ordinance to be dealt with at an administrative level so you either meet or don't meet the standards that are applied.

The other problem with the discretionary approach is that the courts in reviewing decisions have become very suspect where you do have a situation where you have a hearing that's dominated by emotional testimony without a lot of objective facts and the courts tend to be very concerned that the decision may have been swayed simply by public sentiment and not by the standards that are in the ordinance. In my judgment an ordinance such as this is administratable only if it uses the second approach that that is establishes frankly arbitrary but very objective standards where you can say it either meets or does not meet the requirements. Now the WAC regulations that have been adopted do a heck of a job in terms of making sure everybody's aware of what's going on, but if you make sure everybody's aware of what's going on and then have an approval process that doesn't have objective standards, you're just inviting a disaster.

VARTANIAN: We could always adopt this at 1,000 feet and as times change come back and amend it I'm sure.

DELEISSEGUES: We could always ask for a variance too, couldn't they?

VARTANIAN: Yeah.

LOWRY: You could ask for a variance, although under the criteria for a variance the County code it has to be related to the specific property and it would be very difficult to prove up criteria for a variance in any -- in given this kind of a situation.

THOMPSON: Yeah. Within the committee meetings I actually brought the code and the ordinance on the adult entertainment centers to the, to the group and so they were aware of the 1,000 feet, 500 feet ordinance, you know, the stipulated distances in ordinances that are placed there to as, you know, as a mitigating factor for public safety and that kind of thing and we had long discussions about the fact that you can't -- the distance doesn't guarantee public safety in any way, shape or form, it could be two miles and it might not guarantee that something won't happen. So I appreciate Rich Lowry's explanation, I just thought I would bring this to your attention because I think ultimately it could be a factor down the road and that's kind of what I wanted to express.

LOWRY: And again and I might indicate that I think under the Growth Management Act designating these as essential public facilities the burden is certainly on the County to prove up that these restrictions do not preclude the siting of these facilities within the county, we've got to be able to show that the 1,000-foot standard leaves an adequate market for sites and I think that burden lasts beyond mere the time of adoption and it's

a continuing obligation for us to show that they're -- that we're not unduly restricting the ability to site.

VARTANIAN: If we in ten years or five years found out we couldn't do that anymore, I assume we could come back and amend the code to 500 feet or something?

LOWRY: If five, ten years from now the indication is there isn't any -- aren't a significant number of sites available, I don't think we'd have any option but to amend the code.

VARTANIAN: Thank you.

DELEISSEGUES: Any other questions?

THOMPSON: Thank you. Thank you for the opportunity to speak.

DELEISSEGUES: Thank you. Does anyone in the audience wish to speak for or against this?

VAN CLEVE: Bud Van Cleve, 1407 NE 68th Street, Vancouver, 98665. I was a part of the advisory commission and we struggled with this issue for a good part of one evening and the end result is we decided not to put any restrictions on it because it would be discriminatory and it would be kind of difficult. As an example, you go out on Highway 99, if you would, and there's a building that they looked at, oh, at about 7200 block and on the other side of the freeway is Hazel Dell Elementary School, it's within 1,000 feet as the crow flies, but to get there it's probably 3,000 feet because you got to go north or south to go across the freeway and then north or south to get to the school so how would you interpret it. We decided to just forget it. The only restrictions of any distance we could find at the time, and Cleve checked on it, was a book store, adult book store or porn shop, and there's nothing else on any other kind of clinic and we decided after spending a greater part of an evening it's best to just bag it and not put that in it and I still think that was the right judgment at the time.

CRC, the company that, that opened the clinic has used the criteria in other locations in the Northwest and other states and it's working very well for them from what they tell me and without any trouble and the first thing they've done in each instance in opening new clinics is go directly to the community first before they do anything and talk to the local government and talk to the community and let everybody know what their intents are. And one of the representatives out of the department in Olympia was attending a conference, I think it was last month, in Atlanta and they were taking the criteria to Atlanta to present that to representatives from all over the country, I haven't heard the results of it, but I understand that they were going to make that presentation in Atlanta. Thank you. Is there any questions?

DELEISSEGUES: Any questions of Mr. Van Cleve?

VAN CLEVE: Thank you.

DELEISSEGUES: Thank you. Thank you very much. Go ahead.

VARTANIAN: Basically you're saying you didn't -- it wasn't that you had decided not to deal with the distance, you just decided there was not to be a distance consideration?

VAN CLEVE: Put no restrictions, distance restrictions in the criteria.

VARTANIAN: Okay. Thank you.

DELEISSEGUES: Any other questions? Okay. Thank you, Mr. Van Cleve. Anyone else wish to speak for or against the amendment to the ordinance? Okay. If none, we'll return it to the Commission for discussion.

RETURN TO PLANNING COMMISSION

BARCA: Well, after hearing more background information from the citizens committee and looking at what's before us, it seems like utilizing the 1,000-foot buffer which has spawned from other controversial facilities is really one to address a concern about the safety of children and whether or not one would be able to say that a facility of this nature would create a threat towards children exclusively, I don't think we have any data or any information that says one particular segment of the population is at a higher risk than another population as a result of the siting of one of these clinics; however, if we look at the zoning in which you're proposing to put them into, there are quite a few business applications that would be catering specifically towards children that would not be covered in this buffer and so I believe although it may have been well-meaning to put it in initially, I believe Rich's description of it being arbitrary it is probably close to the case, trying to address the general public's concern, an unspoken concern, I don't genuinely believe that what you're proposing with a 1,000-foot buffer could substantially be pointed at as being able to adequately protect from that concern.

Looking at all of the zoning that it is entitled to be into, although it's not schools, there are a lot of other types of facilities obviously that it would generate public traffic whether it has children in it or not. I'm wondering under the circumstances when we look at this if we're doing nothing more than forcing the facilities to take up residence in places that may not necessarily be the best for the target clientele and I'm saying that in the context that there may be facilities available perhaps because of public transit lines or the aspect of housing which we certainly do allow them to be very close to medium and high density housing and so forth whether other services in the community and other businesses in the community that would be able to operate just fine with them are going to be in a position of saying that even if it's a good match, we're going to preclude them to do that because of proximity to a school or park.

So after hearing the testimony that you have here I think describing it as arbitrary isn't out of line. Although I certainly understand the intent, I just don't think the intent is

really going to fulfill its obligation by putting that in there, so I think I would like us to see the aspect of removing the 1,000-foot buffer and allowing it to go forward on its own merit.

ALLEN: I agree.

DELEISSEGUES: Any other discussion?

VARTANIAN: Yeah, I would agree also. I think the 1,000 feet although well intentioned is maybe more of a placebo to sort of maybe ease the County into having these things come in, but when it's all said and done, 1,000 feet, 500 feet, you know, if something's going to go wrong, 1,000 feet is not going to stop that from happening. So I would -- and I don't think we have anything that says it's going to go wrong because facilities of these natures have been shown physically to be quite safe for the surrounding community so I would support doing away with the buffer zone.

DELEISSEGUES: Rich, I have a question. If we do away with the buffer zone is there enough left in the ordinance for the Hearing Examiner to make a decision that wouldn't appear to be rather vague?

LOWRY: The only other -- well, you have Subsections A and C that are left. Subsection C simply is a requirement to comply with other applicable law, that obviously is will apply whether or not it's put into the code. The only really change in code, then, would be Subsection A which says that the approval of these kinds of facilities shall be a Type 2 through a Type 2 process. The reason that's significant is if you have one of these facilities going into an existing building that -- and it's not increasing the parking or otherwise triggering one of the grounds for a Type 2 review, it will be treated as a Type 1 and no notice at all will go out.

So the effect of making it a Type 2 is that where a facility -- where one of these facilities goes into a strip mall for example that's already built and is ready to receive it, it would elevate it to a Type 2. Now whether that makes sense or not if there aren't any standards that would allow turning the use down, I'll leave for the Planning Commission, but that's all that would be left of the ordinance.

DELEISSEGUES: Jeff, do you have anything to add?

NITEN: Yeah. As the Title 40 is currently written these types of facilities would basically be classed as an outpatient clinic and would be permitted by right in, let's see, C-3, C-L and the C-H zones and as a conditional use in the CR-2 and the C-2 zones and then they're outright prohibited in the CR-1 zone, so if anything if Subsection A was left, this would basically make all these types of facilities a Type 2 decision, administrative review, specific notice to the property owners within a certain distance from the site chosen and that's pretty much it.

DELEISSEGUES: Thank you. Any other discussion? Ready for a motion?

BARCA: I'll make a motion that we approve the staff recommendation for opiate substitution treatment facilities with the modification that Section B of 40.260.165 be stricken from the document going forward to the Commissioners.

ALLEN: I second.

DELEISSEGUES: Okay. Moved and seconded that we approve the draft ordinance with the exception of Section B, that it be stricken. All those -- let's see, we better have roll call.

ROLL CALL VOTE

BARCA: AYE

ALLEN: AYE

VARTANIAN: AYE

DELEISSEGUES: I vote AYE but I'd leave Section B in.

DELEISSEGUES: Okay. Then we'll --

ALLEN: May I make a comment?

DELEISSEGUES: Yeah, go ahead.

ALLEN: I think I want to commend the Clark County committees, the citizens advisory committee for sticking out with this very lengthy process, it took a lot of volunteer hours as well as staff time and I think that you guys had to balance the needs and goals and mitigation and everything else that was various, on the (inaudible) and you did a very good job. Thank you.

VARTANIAN: Here. Here.

PUBLIC HEARING ITEMS & PLANNING COMMISSION ACTION, continued

B. REVIEW AND REVISION OF NO NET POLICIES 9.3.4 AND 9.3.5 OF THE CLARK COUNTY COMPREHENSIVE PLAN TEXT:

Policy 9.3.4 Restrict rezoning of primary, secondary, and tertiary industrial parcels for non-industrial use by preserving industrial land exclusively for those permitted uses in the industrial zone within the urban growth areas (UGA's). (no change)

Policy 9.3.5 Consider amending the Comprehensive Plan Map and rezoning of prime, secondary and tertiary industrial or employment center lands to non-industrial or non-employment center uses, only after the Board of County Commissioners (BOCC) determines that (1)

such lands cannot feasibly be improved to prime industrial status due to physical conditions (such as topography, critical lands, street patterns, public services, existing lot arrangement, etc, (2) a non-industrial or non-employment center designation and zoning is more appropriate in light of new circumstances and applicable planning policies, and (3) after other replacement sites within the existing UGA of equal or greater industrial potential have been designated industrial on the Comprehensive Plan Map and zoned to achieve no net loss of business park, office campus, and industrial lands.

Staff Contact: Oliver Orjiako, (360) 397-2375, Ext. 4098

DELEISSEGUES: Yeah, thank you. Okay. We'll move on to the second item on the tonight's agenda which is the review and revision of the no net loss policy of the Clark County comprehensive plan. Do we have a staff report, Oliver?

ORJIAKO: Yes. Thank you, Planning Commission members. You got a copy of the staff report in your packet and we also included the current no net policy for the cities of Camas and Vancouver, we also attached comment from the town of Yacolt, those were the only three jurisdictions that we have input from, I did not receive any comment from either Camas or the City of Vancouver that they intend to change their current no net loss policy.

Let me begin by emphasizing that the reason we are here discussing the no net loss policy is to have a recommendation from the Planning Commission to the Board that the current no net loss policy be tightened and if the Planning Commission concurs with that recommendation, we will forward it on to the Board of County Commissioners. We believe that the current policy the way it is written, and I will get to that quickly, is very loose. And in a way of background if I may, the no net loss policy was adopted in 1996 in a response to the Western Washington Hearings Board remand order to the County. The order from the Hearings Board specifically calls the County to or required the County to determine what excess, what they were calling excess industrial land that we had in the inventory what they should be designated because at the time we were arguing that we need only 3,000 prime industrial land and we had over 12,000. The other particularly we were calling secondary and tertiary and the Hearings Board argued that we should redesignate those marginal industrial land if they are not required.

In a sense we have our legal counsel here, he may give you a better background on why we adopted the policy, but as a result of that remand we came up with this development regulation to tighten the County rules on industrial land. So that's in a nutshell is the background as to why we have the no net loss. It's now required, you may hear some argument today, it's not required by GMA, but we are required given that order to come up with a development regulation on preserving industrial land primarily for industrial uses. What I have up here is the current countywide planning policy that is applicable to all the jurisdiction in the county so we are not recommending

any change. That's Countywide Planning Policy 9.1.11, we are not recommending any change. That's applicable, again, to all the jurisdiction in the county including Clark County. The following two policies, 9.3.4 and 9.3.5 is applicable to the unincorporated portion of the county. What we are recommending in Policy 9.3.4 is to strike out the classification scheme, prime, secondary and tertiary. The Board have directed staff to no longer use that classification scheme, industrial is industrial, but that's what we're recommending on the second policy 3.4. If you go to Policy 9.3.5, you can also see our recommendation which is also to strike out the prime, secondary and tertiary classifications. And on Criteria 3 we are recommending also that, that is what I mean by tightening the policy by changing the "or" to "and."

Another issue in that policy, it is very long, if you look at Criteria 1, I may indulge you in reading that, it says the County Board of Commissioners can consider amending the comp plan and the zoning of industrial land to employment center, to nonindustrial uses, if the Board determines that, one, such lands cannot feasibly be improved to I use the word usable industrial status due to the physical conditions. It list the conditions, topography, critical lands, street patterns, public services, existing lot pattern and et cetera. Then you go to Criteria 3 it says after other replacement sites within the existing UGA of equal or greater industrial potential have been designated "industrial" on the comprehensive plan map to achieve a no net loss. I believe that that's inconsistent. Why do I say so, it first calls for the County to determine that such lands cannot feasibly be proved to prime, then it calls for replacement of equal or greater, so if it's not feasible why would we be requiring a replacement.

So what staff is recommending is on Policy 9.3.5 to delete Criteria 1 and just leave 2 but add -- on 3 add, insert, the "and" rather than the "or" so you have two criterias to be met. I must also indicate that staff is not taking a position that this is putting a prohibition on individuals applying on annual basis to rezone industrial land to known other uses, the burden is still on the applicant to meet this criteria.

I have also indicated some of the reasons why we believe this policy ought to be reconsidered and tightened. Right now we're faced with the issue of replacement. If you go back to the countywide planning policy, for example if you read that it requires the County to, not only the County but the other jurisdiction, to consider conversion of industrial land to employment center only during the ten-year update. Now what would that do, I think that's in a sense is also a net -- a no net loss policy. It makes sense to consider it during the ten year. Industrial development takes time and I'm not going to give any editorial comment, but during the ten year you can look at all the three types of, you know, both residential, commercial and industrial wholistically. If we believe that some of the industrial land is not appropriate, you can then consider rezoning it to either commercial or residential and then determine how much more do you need to bring in. So it makes sense to look at the overall land use during the ten-year update, that's why the countywide planning policies is written in the manner in the way it is written.

I have provided on Page 3 one issue I think the PC and the Board will be considering. In my review of this particular issue I think that it is appropriate to determine or to know

how many acres do we need and how many acres is designated as the (inaudible) alternative that the County's reviewing is presented. What I have done here is give just a brief summary. I know that the Board as they go through the selection of the preferred alternative will make sure that whatever plan or preferred plan the Board chooses is consistent with their values and principles. What we're saying here is that even if you look at Alternative 2 and 3, we're still a little bit short of 1,000, a little bit over 1,000 acres. That's some information that I provided to the PC to consider.

What relationship does that have to this issue. Well, my issue here is that if providing this information indicates that we are relatively close to meeting our need, we may no longer face the skeptical view of the hearings board that industrial land is simply residential land in disguise. Grant you that the makeup of the current Hearings Board I don't know what they're going to rule, but that was the ruling of the previous Hearings Board that looked at this issue so I provided that as information to the PC. There are six options that I've also provided in our staff report, I won't go into details unless you have any questions. What we are still after is to tighten this policy and I will take any questions that you may have.

DELEISSEGUES: Okay. Thanks, Oliver. Any questions of Oliver?

BARCA: Oliver, you've introduced the terminology of Alternative 2 and Alternative 1 and can you explain what you're referring to with Alternative 1 and 2?

ORJIAKO: Well, Alternative 1 is the existing comp plan that was adopted in '04 and Alternative 2 is the alternative that throughout last year the Board spent considerable time through work session and getting the public involved in giving the direction on what type of land use and growth we were planning for we come up with Alternative 2. That may mirror those discussions and the way that the Board was thinking at the time, that's what Alternative 2 represent and that is going to be considered under the DEIS that is going to be issued shortly, but that's what I meant by Alternative 1 and 2.

BARCA: Okay. So that represents a plan that's already working its way through long-term --

ORJIAKO: Through the process, yes.

BARCA: Okay. So the analysis that you put forward in this document to us is based on the potential that this Alternative 2 would become the new comp plan?

ORJIAKO: I use this, I presented this here just to give an indication of where we are, that's the purpose of this section.

BARCA: So either in our current state or potentially in the future state, you're showing us the shortage or the lack of industrial lands and business park inventory based on either one of those plans?

ORJIAKO: That's correct.

BARCA: Okay.

ORJIAKO: Now that doesn't mean that it wouldn't be remedied as we go through the process, I don't want to give that impression.

LOWRY: I think it might be helpful to put the staff recommendation in perhaps a bit different context. Two of the issues that are raised in the staff report relate to changes that were made to this policy in 2004 and staff believes errors may have occurred, unintended errors, when those changes were put into the plan. The first is employment center lands were added to the policy, before 2004 it only applied to industrial. Well, as it's currently written no net loss appears to apply across the board to industrial and employment so that you could freely change industrial to employment or employment to industrial without invoking the no net loss policy. I think staff believes that was not intended in part because, well, that's also related to as a plan to code matrix issue in terms of whether you could implement the industrial comp plan designation with an employment center zoning designation, but that's issue number one that relates to a potential 2004 error.

The second 2004 potential error is the "and" that was placed in the list of required findings had been an "or" before, excuse me, had been an "and" before 2004, was changed to an "or." If it's appropriately an "or," then the issue regarding that first criteria, the inability to bring the tertiary land up to prime or the unusable industrial up to usable industrial, goes away because if it's an "or" that's an okay standalone ground to get rid of it, although that takes us right back to the reason we had the original remand from the Hearings Board, they thought we had way too much tertiary industrial that would over time be converted to residential and we already had maxed out what we could prove up in terms of residential from the '94 plan, very suspicious that this, this tertiary industrial was really in there waiting to be rezoned, but from looking at just the 1, 2, 3, if it's "or," one, grammatically can't stand alone, it can't stand alone if it's an "and" because it's inconsistent with the next two subsections, it doesn't make any sense to say you can't prove the land but a non-industrial designation is more appropriate or that you're going to replace it with what, other, other land that can't be improved to industrial, true industrial status. So those are the two issues that sort of relate to housekeeping measures relating to what was done in 2004.

The third and more significant I think issue that staff's raising is what ought the policy to be. They were simply reopening up the policy. It's clear that no city has adopted as strong a policy as the County has. The City of Vancouver for example has a no net loss policy but they have a catch-all exception where if the Council determines that another designation is really in the best long-term interest of the city, then they can change the designation. And so I think the policy issue that is before the Commission is whether this very -- a relatively strict no net loss policy ought to be loosened up some.

DELEISSEGUES: Well, how does the City determine, what criteria do they use to determine whether or not it's in the best long-range interest of the city?

LOWRY: Well, that, and I'm loosely quoting from their policy, I observed one City hearing where they were dealing with a piece of industrial that was -- that they approved being changed to commercial and their conclusion was premised upon finding that it had been industrial for a long time but hadn't developed, that it was -- there was a need for some additional commercial in that area and there was a market for commercial in that area but not for industrial. Those were the kinds of findings that they made.

DELEISSEGUES: It seems like that's common sense.

LOWRY: And if it's common sense, it's -- the common sense couldn't be achieved under this current County policy unless you believe the "or" as literally read it could be the or, or or, but if you go back to an "and" and then it -- you had a very strong policy and it couldn't -- and you couldn't change it merely because you made the determination that a different designation was made more sense other than at the ten-year review time period when all issues are wide open.

DELEISSEGUES: It seems like there's some obstacles in the policy that the staff's pointed out here that make it almost if not impossible for someone to go find replacement industrial land if, number one, the County's determined all of the potential industrial land to be that and zoned it that way and someone would have to go out and find some more outside of that that is unlikely, it wouldn't be very good land if it hadn't been identified originally, and then there's of course the question of whether or not the land's for sale or whether the landowner would be willing to sell it, either one of them would be an insurmountable barrier it seems to me to being able to do anything.

We had a case like this on 88th Street there across from Home Depot and so forth where they came in, the proponent alleged, at least stated, that he had had that industrial land for sale for years and had no interested buyers but he did have a number of people that were willing to put in a commercial development there and I think the Planning Commission as I recall recommended approval for that change.

LOWRY: And that's certainly what we've seen in recent years is not a conversion of industrial to residential but rather from industrial to commercial.

DELEISSEGUES: Well, any other --

VARTANIAN: Go ahead. Milada I think had some --

DELEISSEGUES: Milada, questions?

ALLEN: Well, I think we're a little bit past that point, but I'm going to ask that question anyway. On Page 3 when I'm looking at the for business park we needed 3,669 acres of BP, and then it goes on and the last sentence says Alternative 2 includes 746 additional BP acres so there is a deficit of 1,534 acres, and I was trying to figure out where the math was coming from because when I'm looking at what's in here, it

doesn't add up.

ORJIAKO: Okay. Good observation. This is in total so what you have to do is, what I tried to do here, is to say if you combine how much you need for industrial land and how much you need for business park let's -- to answer your question quickly let's go, let's start with industrial. We're saying that we needed 6,065 acres, we said we currently have in existing inventory 295, we said we should be adding give or take 2, what is it, 2055, we added only 1755, so there's a shortage there; correct?

ALLEN: Yeah, I see that Paragraph 1 adds up, but the second paragraph does not.

ORJIAKO: Okay. The second paragraph says you also needed 3,669 acres of BP, you have 3,444 acres in the existing inventory, we only added 225.

LOWRY: That's not what it says.

ORJIAKO: No. We should be adding 225, we added 756, so the difference between 756 and the 225 we needed should be a little bit over 500.

LOWRY: But that's excess.

ALLEN: What I'm seeing here is a deficit of 1,534, that's what I was asking about.

ORJIAKO: That's total.

ALLEN: Okay.

ORJIAKO: Yeah, that's total.

VARTANIAN: 2,055 acres short non-industrial --

ORJIAKO: Yes.

VARTANIAN: -- 521 long on business?

ALLEN: So technically that should have been a separate paragraph then. Okay. Because (inaudible).

ORJIAKO: It could be what's actual be read as total, yes, so the math is correct, it just should say "total."

DELEISSEGUES: George.

VARTANIAN: I have a couple of things. The ten-year update, is that something implicit in industrial zoning versus nonindustrial or is that the theoretical cycle on the ten year, I'm sorry, the comp plan update?

LOWRY: Under GMA ten years is the cycle under which we have to obtain a new OFM number and consider movement of UGA boundaries.

VARTANIAN: Okay. So if the County decides they want to do one every five years or two years, they can update that or does that still stay at ten years?

LOWRY: The ten years is a -- is we can't do it any less often than once every ten years, we can do it more often.

VARTANIAN: Okay. So you don't have to wait ten years to change your zoning?

LOWRY: Right.

VARTANIAN: Okay. Explain to me if you can, well, two things, two more things. When circumstances have changed, what circumstances, on Page 3, I'm sorry, Option 2, when you say circumstances have changed, what kind of circum -- what would be a change in circumstance?

ORJIAKO: Rich may have a legal opinion on that, it could be market conditions.

ALLEN: So it's open to interpretation then?

ORJIAKO: Yes. But, yeah, it could be simple road improvement but not necessarily, but I will consider change in circumstances may include growing faster than we have forecasted. Yes, you're correct.

ALLEN: So just about any reason would be good?

ORJIAKO: Yes.

VARTANIAN: It's not that like a volcano opened up and --

ORJIAKO: No, it's not like (inaudible), no.

BARCA: But that, would that apply?

VARTANIAN: That would apply. And last can you give me some sense of why, what's the attraction of keeping something industrial when commercial applications may have just as much benefit to the county as industrial? And I'm not saying they do, I mean I'm assuming there's an economic tradeoff maybe.

LOWRY: Remember the genesis of this policy was a remand from the Hearings Board, their concern was not freezing industrial but rather precluding what they viewed as an already quasi-bloated residential inventory from getting even more --

VARTANIAN: More.

LOWRY: -- expansive by freely allowing conversion of the tertiary industrial to residential. So it wasn't so much for the sake of preserving the industrial as preventing an oversupply of residential.

VARTANIAN: So for the County's purposes would it -- if we precluded going from industrial to residential --

LOWRY: I should say beyond that, that that was the genesis and the genesis was focused on the stuff that would probably never turn out to be, to be prime. This huge amount of industrially designated property we had when we were after only a fraction of that amount at the 3,000 mantra for prime industrial, aside from the reason for the remand I think you could make an argument that a major focus of this current update, as well as the 2004 update, was to increase the opportunity for industrial development on this side of the river and policies that result in a very large designation of new industrial lands in order to achieve that objective, if that's a foundation for the plan, then I think that there's a policy argument that can be made that we don't want to see that policy goal, a very fundamental goal under the update, frittered away by allowing conversion of the job producing lands to other purposes.

VARTANIAN: So basically the concern is going from job producing lands to non-job producing lands as opposed to industrial to commercial?

LOWRY: Well, if you had family wage before job, I think that's correct.

VARTANIAN: Okay, yeah. I mean so we wouldn't have a problem if we changed the ordinance, sorry, the concerns as you said to going from family wage jobs to no jobs or no family wage jobs as opposed to one kind of family wage job to another kind of family wage job? I mean does that --

LOWRY: Well, that sort of presents the issue of whether you ought to be able to freely go between industrial and employment center.

VARTANIAN: Right. But I mean if the hourly wage is the same and I'm assuming the tax revenues will be approximately the same is there a concern?

LOWRY: I mean that's -- I don't think staff has a huge issue with that, we're -- and that's why they're sort of asking you to try to make a recommendation.

VARTANIAN: Okay, that's it.

DELEISSEGUES: Well, on the proposed revision of the no net loss policy, how do you feel that that overcomes some of the problems that you're talking about?

LOWRY: Well, again I think it's easiest to divide it into two parts; one, were there, are there some necessary corrections to the changes that were made in 2004 first relating to interchangeability between industrial and employment center, and second the issue of whether the "or" should be an "and," and then secondly what I think is the more

important policy issue of how tight our no net loss policy ought to be and staff has sort of given you a menu of options in terms of that you could choose from that would dictate what kind of changes need to be made to the current policy.

DELEISSEGUES: Do you recommend one of those?

ORJIAKO: Changing the "and."

LOWRY: Yeah. I don't know that staff is. I think staff feels that it's important that this issue be addressed --

DELEISSEGUES: Staff usually does.

LOWRY: -- and because it, there is, there is a certain amount of uncertainty, well, let me give you one example. Some jurisdictions and some of the Cities believe that the correct policy ought to be no net loss of jobs so that if you attract employment within industrial or employment center designated property that has a greater employee per acre density, then it's generally assumed that you ought to be able to then convert some other industrial land since you're meeting your total employment goal on less land than was originally thought to be necessary, that would not be permissible under the County policy but should the County policy be changed.

DELEISSEGUES: Any other questions of staff?

ALLEN: That would now be permissible under County policy as it stands or is it as it's proposed?

LOWRY: Well, other than the "and" versus "or" issue it would not have been permitted under the policy as it existed prior to 2004. With the "and" changed to an "or," then you have Subsection 2 that says a different designation is more appropriate and that always could be a determination. So with an "or" it would be possible under the current terminology.

DELEISSEGUES: Ron?

BARCA: I'm good for now.

DELEISSEGUES: George?

VARTANIAN: I'm finished for now. Thank you.

DELEISSEGUES: Milada? Okay. Then we'll go to the sign-up sheet. Steve Horenstein.

PUBLIC TESTIMONY

HORENSTEIN: Thank you, Mr. Chair, members of the Commission. For the record my name is Steve Horenstein, 500 East Broadway, Suite 400 in Vancouver. I'm not here on behalf of any particular client tonight. We do have one application that you'll hear in the next, I think maybe next meeting, but it would be under the existing code so I'm really here just as someone in the business who's concerned about the current policy. Excuse me. I'd like to bring us -- first of all you have a letter from me, I apologize for not getting it to you until today, we had some logistical issues and I -- in fact I apologize for its length a little bit and I'm going to try to summarize it for you tonight. I'd like to go bring us forward from '96 and trying to fix what happened then to 2006 and then I'd like to take us up 10,000 feet to look down at what's going on here if I might.

We certainly appreciate staff opening the issue, they're really giving you quite a range of options, either tighten it up or loosen it up if you choose to do that. I think Commissioner Vartanian said it well but casually at a workshop not too long ago where he asked if we were really interested in no net loss of land or is it a jobs issue, that's an argument we have made in other jurisdictions to some degree successfully because as the community has grown and as the exodus in the morning grows with that, I'd like to have us focus on jobs and not worry quite so much about the land itself.

I would like to submit to you that the real policy issue we should be talking about today is a no net -- whether we should have a no net loss of employment options for commercial and industrial jobs recognizing that market factors over time shift and the issue shifts with it. This is pretty clear to me doing these kinds of things, doing these kinds of projects and wrestling with this issue in my day job, and I have come to believe that flexibility is absolutely necessary to ensure that several considerations are recognized.

The first one is that the economic character and the economic need of the people that live in the community has changed. The need for retail and commercial jobs continues to increase not necessarily at the expense of industrial jobs of course, but there's several reasons why that's more important. The first reason is we just have way more people here. And it is true commercial realtors will tell you that retail follows houses and they look for rooftops and I see that all the time in the kinds of things we're doing. Who would have guessed in 1996 that we would have a Costco here today in Clark County with a sales tax. Who would have guessed in 1996 that we would be permitting today two Best Buy stores that sell electronics, that was unheard of in the past because of the you can buy them without -- expensive electronics and TVs and washer and dryers across the river without paying the sales tax. Of course you're not supposed to, you're supposed to pay the use tax, and I'm sure we all do that, but it's different now and the what -- we've worked on Targets, we've worked on Wal-Marts, we've worked on large commercial shopping centers, Hazel Dell Towne Center for example, Birtcher Eastgate, Columbia Tech Center which probably is the most forward thinking done 15 years ago of anything we have today, and all of the retailers we deal

with they're the larger retails that anchor those tell us it is the rooftops that now make Clark County attractive in spite of the sales tax number, so it's a convenience issue.

It's also curious I've learned recently an employment issue. There are many unemployed Clark County residents that either have training or at least the ability to perform retail and commercial jobs and we're starting to employ those folks because we now have large stores and medium sized and small stores that we didn't have before. Eric Hovee opined in his market analysis for the Birtcher Eastgate project out on Fourth Plain that those folks that either have the training or at least the ability to have those jobs can't go across the river to work because the jobs don't pay enough wage to pay the tax and the gas and still have much left over, so there is a segment of the job population that benefits from those jobs.

The change in the tax climate is another very important issue. Sales tax has become key to local governments. The reason the Vancouver's new no net loss policy, and we were intimately involved in drafting it, says the test for conversion is long-term economic health of the city. Translated, if the market will support retail somewhere and it makes sense to do that and we can get the sales tax from it, that addresses the long-term health of the city.

Many high paying jobs such as medical, technical, engineering, especially the medical, let's talk about the medical here for a minute, as the population increases obviously we're getting more and more and more of it, the new hospital is generating considerable not only second clinics for physicians from the other side of town but lots of new physicians as well, you can't put them in industrial at least the way the code is currently written. As we grow it seems that the County's responsibility and perhaps obligation is to provide a broad range of job opportunities for a variety of the economic sectors, tightening down this policy I can tell you I would under the proposed tightening version, I would never recommend to a client or even try to convert an industrial piece. We do try today and with mixed results based on the facts and circumstances of a particular case.

The other important issue is that we are under retail to the extent that we have a sales tax leakage in the range of 29 percent. And we hear that from Eric Hovee when he does market studies for projects and we hear it from Jerry Johnson who I'm sure you're all familiar with who does -- Johnson & Gardner does market studies for projects and we hear from Paul Dennis when he does market studies for projects, they are all of these consultants economists are very consistent in this, we need to, we can capture that, those sales, keep people off I-5 or I-205 going to Portland and put the sales tax in our local coffers rather than losing it completely.

Let's talk about a couple of projects. Let's talk about the Jantzen project which is probably it's about a -- well, it's pushing 20 acres I think, maybe a little less than that, it will be clearly be a retail project of some sort, most likely a grocery store of some sort with all the stuff that goes with that. If you think about the trade area there that's great, you think about not going to Safeway or the other store over there at lunchtime which some of us do. It was a tough road not because of the economic issue, the City very

quickly changed the policy to create this long-term economic health, that was the easy part, it was the airport that made it so controversial and took a long time, but the City was very quick to realize the sales tax revenue that could be generated by a commercial retail center there. And I don't know that any others have been applied for under that policy now, we certainly haven't, but I do think we'll see more over time.

What I like about the City policy is that it creates a presumption in favor of the family wage industrial jobs and puts the burden on the property owner or the retailer or the developer, whoever it is, to make the case that the site is suitable for essentially retail use at least in today's economic climate. I think that would be an important thing for the County to do too because there's no reason to get away from a preference for family wage jobs, I'm just asking that you think about it in a more flexible way. The Columbia Tech Center, we did that over 15 years ago I believe now and it had a -- it was the first mixed use project without a mixed use ordinance in place. It always had a component of residential which was built right out, it's right there on 15th Street, people are willing to see it as part of the project now. It has a multi-family component, a commercial component and an industrial component. The owners of Columbia Tech Center built Mill Plain from 192nd, yeah, from 172nd to 192nd up roughly a \$10 million project. There may have been a little bit of State grant in it, but they funded the vast, vast majority of it. They were in a position of not having used up their commercial retail, the component of their original approval, they couldn't have built the road because of its cost without knowing they could put some retail in and now they're getting a pretty nice center there, one of the two Best Buys is going there and there's a Kohl's there, new to the community, and a variety of other nice stores, I think even a book store, and there's a real market there for it obviously, it's a great spot for it, but without the flexibility of their master plan approval couldn't do it, it would just be -- it would still be the industrial zone that Tektronix put on it 28 years ago when I was a brand-new lawyer.

Birtcher Eastgate down on the Fourth Plain at about 137th to about 152nd was a pure industrial site, been there forever, the Keller family had owned it forever, it had been passed by and passed by and passed by. The rationale the City used for approving about 40 acres of retail there was the demonstration by the developer, the applicant, through its traffic study that the traffic improvements that were necessary there couldn't, wouldn't be supported by the value of just industrial or business park land. Retail land today has a much higher value. There's quite a range of values but it's always higher. And the traffic cost of building that center was in the neighborhood of 7 or \$8 million traffic costs, couldn't be done and wouldn't have been done and hadn't been done because of the industrial zone and the value of the property, we're seeing that more and more.

The continue of concurrency has gotten critical. When concurrency first came in we were able to do stripings and stop signs and little things to make it work and it's progressed over time and then pretty soon we had to start doing signalized intersections, now it's 8 or 9 million, 7 or \$8 million worth of traffic improvements to build 40 acres of commercial and make another, let's see, another 90 developable acres of industrial available. It's out of control, the traffic costs, it is only going up

because the jurisdictions don't have money to do it. So those are three good examples that we had to work very hard to create some commercial, some commercial retail dirt.

I think you've got to look at this policy. If we're going to look at it now, let's look at it before we make the final GMA decisions because we better add a hell of a lot more retail land if we're going to do the fixed policy, sort of that we have is one option that Oliver is proposing. So let me sum up by saying that I think we ought to back up. I think you ought to workshop this a little bit. I don't think we have to do this tonight certainly. I think you ought to provide a more enlightened view, some more enlightened options, to the Board with more specific options than you perhaps have today.

And I'd like the policy to see the following, include the following things: First of all we want to ensure the long-term economic employment health of the county. We want the policy to allow for a redesignation of land to its highest and best use based on its size, its location, its physical constraints, national and local market and employment trends, which is the thing that didn't exist in 1996, it wasn't that complicated then, revenue generation, tax generation and increased employment ratios, housing to jobs. You can't do that if all you're focused on is as a policy is family wage jobs, that's not the reality in Clark County. I know we all don't like -- we talk a lot about not liking Wal-Marts but look at the parking lots and I'd venture to say that they're big and they're full. If they weren't full, they'd really be too big.

VARTANIAN: I'm not sure I'd use that argument but --

HORENSTEIN: That's right. The other one we did was Union Ridge in Ridgefield, that's where the jobs versus land issue first came up for us. We developed and drafted there a very complex employment mixed use ordinance that has a mix of commercial, residential, industrial, I don't think that's working very well. I think what Vancouver did is going to work very well because it's short and simple and it gives you all and the Commissioners the ultimate flexibility and keeps the preference on the industrial and the family wage jobs. I could go on and on about this, but I'll quit and be happy to answer any questions.

DELEISSEGUES: Any questions of Mr. Horenstein?

BARCA: For the definition again "long-term economic health" you were putting down as tax revenue?

HORENSTEIN: Well, I think that's the way Vancouver sees it and it was easy to do in the first go-around they had because it was a good retail grocery site, I think we'll hear something announced there very soon now and it's a big enough site that you can have lots of other retail and services there and it's going to capture a lot of traffic going east and west even and capture traffic from (inaudible) in the other downtown areas. I don't think that it would be that easy if you wanted to build a medical building for example and couldn't in the industrial zone or other kinds of uses, and I'm giving you that, I'm giving you the reason that -- I'm giving you the rationale for applying the policy

in that case, but there are certainly other rationales that they could use.

BARCA: I was just trying to derive the definition as you gave it so.

HORENSTEIN: In long-term economic health it remains to be seen what other meanings the City will attribute to that as it starts to use it going forward, there's only been one so far.

DELEISSEGUES: George, do you have --

VARTANIAN: Yeah, I have a question. If I understand your comments correctly, and I may not, you're suggesting that perhaps we should be looking at jobs in their totality to include retail rather than just industrial or business park type applications?

HORENSTEIN: Yes, retail and medical and --

VARTANIAN: Well, medical I would put into the business park or office complex.

HORENSTEIN: I'm not sure the code --

VARTANIAN: Yeah, I'm not either. I'm not either, but for some reason I think of those but that may not be. Yeah, staff can answer that.

ORJIAKO: If that's a question, the code allows medical and other professional offices in business park and office campus.

VARTANIAN: Okay. But that's not my immediate concern. My immediate concern is, at least my perception is, that retail jobs, service sector jobs, don't usually pay as well as industrial or office type jobs. In order for the County not to lose whatever number of jobs there are in whatever alternative gets picked in the current established zones that are industrial and business park and still give enough retail in your opinion have you got any kind of a feel for how many acres of additional retail we would need to make you happy for lack of a better term?

HORENSTEIN: Yeah. When you ask that question, then we sort of flop over into the GMA argument.

VARTANIAN: Yeah, I understand.

HORENSTEIN: Yeah. And there are a couple of two or three inventories floating around and I'll be back to talk about that with you because you'll be hearing that pretty soon. It isn't the gross acreage, acres, as much as it is flexibility to look at locations and see what makes sense. The minimum I would want you to do is leave the "or" and find another way to clean up that, the inconsistencies that staff talks about so we have some opportunity to do the conversion. I think a more enlightened policy would be to leave the presumption for industrial in the ordinance, create a window that one could climb through but the burden is on the landowner or the developer or the user to drive

through much like Vancouver has, Camas has one that's not quite as effective, Ridgefield has one that's very complex. It's curious that we have kind of a mandatory no net loss policy requirement in the countywide planning policies and I don't think one of the cities is following, I think Mr. Lowry alluded to that, not one of them is following it as they really ought to be, as they really are required to be frankly.

VARTANIAN: Yeah. Well, I always have a problem when the County, when any municipality or entity, talks about land being the determinant for jobs. I understand that we have a statistic that says nine jobs per acre depending on the application, but if you go to three shifts now you've got 27 people on that.

HORENSTEIN: You don't see that much any more though.

VARTANIAN: Well, and no, you don't, but I mean there are different, you know, you can have a heavily labor intensive factory or you can have a lightly labor intensive factory, so those kinds of -- I'm more -- personally I'm more interested in the number of jobs in absolute terms --

HORENSTEIN: Yes.

VARTANIAN: -- rather than 1500 acres that says there's going to be jobs on it.

HORENSTEIN: And I think this is a little complex, I think it's a little bit of a new way of looking at it, and I don't think we have to solve it tonight.

VARTANIAN: I'm intrigued by your idea of having a work session on it but --

HORENSTEIN: Yeah. I think it requires, to do, to move in a different direction I think would require a lot more discussion than you can fit in tonight.

BARCA: So how many of the cities that have chosen to not restrict the conversion of industrial land are asking for additional industrial inventory in the next round of GMA changes?

HORENSTEIN: I think most of them.

BARCA: Most of them?

HORENSTEIN: Yeah.

BARCA: Which would say that they recognize that there's a need for industrial land and they want to have that inventory, but with the need to feed the beast for their long-term economic health they're willing to convert whenever they can.

HORENSTEIN: Whenever it makes sense. You know, they have to serve -- you have to serve communities with doctors, you have to serve communities with grocery stores, although we have probably as many of those as we need for a while except perhaps

the Jantzen site, you have to provide a dry cleaners, you have to provide a lot of things and as the population grows as fast as it is, apparently is continuing to, we don't have enough of those and we don't have enough of them in the right location and that's what contributes to the traffic problem.

BARCA: So that focus of where people are traveling away from their residential to try and facilitate appropriate commercial options, even by providing the inventory of commercially available land is in no way to be able to legislate the appropriate services going in?

HORENSTEIN: No. Or the locations that they ought to be --

BARCA: Right.

HORENSTEIN: -- it's hard to figure that out in a five-year planning process like you do.

BARCA: Allowing the market to drive that is saying that somebody who believes they have a service that is appropriate for a locale, they will come and consume a piece of property all on their own behest because that's the economic model that says they'll be successful?

HORENSTEIN: Right. Let's use the Jantzen model again as a perfect example. If you think about the trade area of that Jantzen site, it's not only downtown, I live in up in the Heights near up, up just at the top of Lambert, I'd love to have a store there because I have to go east otherwise to find a store, there's not one between work, and I work downtown, and home, think about how many people could say that as you go east. Now that wasn't really part of the criteria, I think the City in that case really was thinking about the sales tax revenue, but it's a convenience issue. I've taken way too long but I'll --

DELEISSEGUES: Any more questions?

HORENSTEIN: I'll be around for a few minutes, I do have to leave shortly for another engagement. Thank you.

DELEISSEGUES: Milada? I have one question before you left.

HORENSTEIN: Sure. You bet.

DELEISSEGUES: You mentioned that the City of Vancouver had a methodology I guess of making a determination of whether or not they're going with industrial or commercial and I just wonder in that decision-making process how they weighed revenue to the City such as sales tax against family wage jobs for the people?

HORENSTEIN: Well, we don't have a very good example of that. I think the Jantzen site was in sort of -- it was kind of an easy convert because it had been sitting there forever, since long before the no net loss policy, with nothing serious happening there,

so that's an easy one. From the use standpoint it's an easy one for -- from community services standpoint and then you add the sales tax and it becomes it seems like a no brainer, although it was a 4 to 3 vote, but I think that was driven more by the airport than -- issues than anything. But I, you know, what I like about that one is that it's simple and it maintains the presumption for industrial family wage jobs. You don't -- the City gets to decide whether the long-term economic health of the community would be benefited by a change in the comprehensive plan and zone designation, but it's the applicant that's got to meet that burden.

DELEISSEGUES: Okay. Thank you.

HORENSTEIN: You bet.

DELEISSEGUES: Is it time for a break, Cindy and Marisa? Do you want to take a ten-minute break? And we'll get back to James in a minute, ten minutes. So we'll take a ten-minute break and we'll be back at 20 after.

(Pause in proceedings.)

DELEISSEGUES: We'll resume the Clark County Planning Commission and we're discussing no net loss policy. James Howsley.

HOWSLEY: Yes. Thank you, Chairman Deleissegues, members of the Planning Commission. For the record James Howsley, Miller/Nash, 500 East Broadway, Suite 400, Vancouver, Washington 98660. Like my esteemed colleague I'm here not on behalf of any particular client tonight but just interested in this issue because it seems to be a reoccurring theme throughout the years in terms of us bringing annual reviews forward to the County. I'd like to first of all thank staff for recommending that the entire policy be looked at rather than just amending the existing policy as written. I do agree with my esteemed colleague Mr. Horenstein on most of the issues and I do believe since staff has decided to open this up to a larger policy discussion that an additional work session or additional item or time to discuss this is merited and warranted at this time. And I would just like to bring up three additional points that Mr. Horenstein did not raise that I just see as observations having dealt with this policy over the years.

The first is dealing with the issue of conversion of employment center lands to residential and clearly the policy as written has a strong presumption not in favor of such a conversion, but as Mr. Lowry indicated in his opening remarks today that in fact the County hasn't really seen a lot of conversion of employment uses to residential land like the Hearing Board had feared. There may exist some type of mapping errors or some other special circumstances that may warrant employment lands going to residential. One particular area of that I can think of recently is the new critical area regulations that have been adopted by the County, we are getting larger buffers and may cause impacts to those employment center lands and pushing them out of primary or secondary status to tertiary, so therefore the higher and best use of that property may in fact be for something other than employment use and it may be residential, so just something for you to take under consideration.

A second observation I have is the concept that we're trying to move more and more away from this strict Euclidian zoning throughout the region and other jurisdictions within the county here, particularly I think of Camas, as Vancouver and some others, are looking at ways of integrating multiple types of uses on the same parcels. One of the projects that's proposed right now for an annual review in the city of Camas is on the MacKay/McDonald properties off of Bybee and 38th and Parker area, those properties have been designated as industrial for a very, very long time. Because of the critical area constraints on them it's not likely that you'll see a large type of industrial employer such as Sharp or Wafer Tech that exists out in the Camas area, so therefore they're looking at doing plan amendments to get uses in there that would fit better with the land such as a mixed use designation that would bring employment uses, good employment uses, as well as maybe some mix of residential and clearly the policy getting stricter in terms of conversion would seemingly prohibit I think these more creative types of zoning and getting away from the strict Euclidian.

My last point is really more of a practical consideration. In the recent years because of the no net loss policy staff, we -- basically all the staff reports any time we suggest a conversion of employment or industrial land to commercial or residential, the automatic response is a staff report denial and I think that this stems from the third policy here which is that we need to provide this replacement property. Changing that "or" to an "and" makes that even stricter because we would either have to go through two annual reviews at that point, the applicant would have to bring one forward for the property that he would want to change and then another one to do a conversion from something else to something else and, you know, how do we know whether or not that other property would meet the criteria as well. It can get very complex and the only other option I could see is you'd have to pray that somebody else was bringing in an application for a conversion to employment land as well. So just from a practical standpoint changing that and to, or "or" to an "and" just makes that much more difficult, much more onerous on an applicant to jump through the hoops and essentially would preclude anybody from doing that until the ten-year update or until the Board decided to revisit the whole entire plan and add more land to urban growth areas. So with that I would conclude my comments unless there's any questions.

DELEISSEGUES: Any questions of Mr. Howsley? Ron?

BARCA: No.

DELEISSEGUES: George?

VARTANIAN: No.

HOWSLEY: Thank you.

VARTANIAN: Thank you.

RETURN TO PLANNING COMMISSION

DELEISSEGUES: Thank you. Okay. We'll return it to the Planning Commission for comments and deliberation.

BARCA: Well, as I look at the arguments, much of what we're seeing is generated by current conditions of the economy and what I think we have really created for ourselves at this particular point in time is a sprawl engine style economy. We put a lot of houses on the ground so therefore we needed a lot of commercial space to service them and as we did that the demand was there and once you start to get that ball rolling, then you have other markets that develop as a result. I may be wrong on this, but isn't the largest employer in the county the school district?

ORJIAKO: That's correct, followed by the medical institutions.

BARCA: Okay. And both of those have swollen in ranks primarily in my opinion to serve the burgeoning population. What we're doing is we are reacting to the market that we have fostered ourselves. We can continue to put in large amounts of residential and service them with commercial and take and strike a good portion of our economic development vision statement away or we could go back to it and talk about the idea that we're trying to maintain genuine diversity in the economic development, but to do that you have to have an inventory of available industrial lands.

Now the discussion about land versus jobs is only appropriate if you have the land to start with. If you wanted to put it into the context of jobs and just the competition for jobs, business park and office campus may very well compete well with industrial lands for the type of jobs and the number of jobs that they create, but I think if we look at the aspect of commercial development itself and what it does for the county, yes, indeed I will not argue with anybody that we are feeding the beast of long-term economic health by giving municipal and county governments revenue, but is that the goal or is the economic vision in our GMA plan supposed to be the goal.

I think we need to try and differentiate what we mean when we're talking about long-term. Ten years in the marketplace you will see different trends come and go, we've seen the demise of malls with roofs over their head, we've seen the development of big box retail put out and large parking lots with a variety of stores surrounding them, that's a change, its current, will it last more than 20 years, who's to say. We've seen commercial developments start to go back in and do urban renewal as is the case of as we saw with the Jantzen site which was made available by the City, but we've also seen out on Fourth Plain and Highway 500 where there was a HomeBase at one time, retail home development store, that went out of business and that entire site has been redeveloped now. It's being redeveloped in my opinion because the marketplace has said it's ripe for that redevelopment.

There's no reason for me to believe that commercial cycles and the change within those commercial cycles won't happen within the inventory of commercial land that we have available today, but we have to let it happen, we have to have a vision statement

and a plan that lasts longer than a two to five-year growth plan update. We don't have anybody that seems to be willing to stand up beyond an election cycle for the same policy from time to time and we need that and if you don't have the land, it's no different than advocating that you want to be a supporter of agricultural policy but you continue to convert agricultural land. So the policy is there but there's no inventory of area to farm. When we look at long-term we need to have a commitment to really be long-term.

I'm in the manufacturing field, I know that development of support services that it takes for the manufacturing field, I see what's going on in the city of Portland and in the surrounding suburban communities and the clammer there is genuinely one to get industrial land available and in many cases the developers are coming in and buying out land that's zoned differently but adjacent to industrial land to put together larger parcels. I don't see on the Oregon side them having a problem maintaining both industrial development and commercial development.

What I see happening over here is we have a vision statement but we do not have proactive policies, we aren't willing to put any of those tax dollars that we're generating through retail sales into the development of infrastructure that may make our industrial land prime enough to put it on the market and be successful in selling it, we don't have a target of how we want to accomplish this, we're expecting the market to drive it. Well, the market is going to be a two year, three, four years at the most decision-making process, however long it takes to get a project in. It's up to us to have a long-term vision and to put something down that says this is the way that we believe and this is the way that we want to do business. So I like the idea of protecting the land.

DELEISSEGUES: Okay.

ALLEN: In my personal opinion and also looking at some of the background documentation on this, I do agree that the county needs a ready supply of industrial land in order to be able to survive in today's marketplace and also to plan for the future, strategically plan for the future, not just little spot development here and there, but to strategically plan for the future you need to tighten up the regulations. So I, and also I'm looking -- can the other person hear you on the other side of that phone, transmission time -- and but I also am looking at the 9.1.11 and of course, you know, it talks about the no conversion or the conversion of industrial or employment center lands to non-industrial or non-employment center districts shall occur only during the ten-year update provided for in RCW, unless equivalent acreage within an existing UGA is redesignated industrial or employment center. So if we don't have the restrictions on conversion from industrial to other uses that is strong enough, we're going to see the conversion going on and on and on and of course there's going to be a demand to expand the UGA in order to provide the equivalent acreage for the equivalent acreage requirement, so I'm a little bit concerned about that.

I was also looking at some of the alternatives and of course I eliminated several of them right off the bat, but then I'm looking at Alternative 3 and 4 and I'm saying to

myself, you know, that is something that probably should be studied and those two should be combined should be studied, but in the meantime we need to strengthen what we have. So to me the Alternative Number 1, I'm leaning towards that because it does have the strengthening measures that I'm looking for in order to preserve some strategic land supply and strategic corridors. And of course, you know, when it was zoned industrial I would assume that it was looked at on a strategic level, cumulative level for long-range planning.

But if for example we do go with the Option Number 1 can we recommend that the Board either directs the staff or forms an advisory committee that could look at Number 3 and 4 combined plus add to it some of the increased employment ratios that Mr. Horenstein was talking about and fluctuating market analysis as well because I do believe that that issue should be studied. I do not believe that this is the forum to recommend that we do not go forth with a recommendation as proposed by the staff because we want this studied, but I do believe that that should be studied, so whatever the mechanism is, whether we have to make two separate motions or if we can combine a motion.

DELEISSEGUES: Whatever the desire of the Commission is. I would think you'd want to maybe make two, two motions, one to deal with the issue that they've asked us to deal with and then secondly maybe make a recommendation to form an advisory committee. George.

VARTANIAN: Yeah.

DELEISSEGUES: Were you finished, Milada?

ALLEN: Yes, I am. Thank you.

VARTANIAN: All right. Thank you. I would support both Commissioners Barca and Allen in what they're saying. The idea of having a work group or commission or committee or whatever we call them these days get together, but I don't think we have enough time to spend to do the appropriate job to consider the alternatives and give analysis to it and still meet the deadlines for the comprehensive plan completion for this annual cycle. I would also agree that -- I mean I could agree with the recommendations that the County staff has proposed with the caveat that we drop Number 1 under Alternative 1 under 9.3.5. I would ask, however, and I do agree absolutely with Commissioner Allen as far as Numbers 3 and 4 alternatives. On Number 3 halfway through the second sentence or the second line says "then recommend change in number 2," what changes, what kind of changes would we be talking about?

ORJIAKO: It is in line with the issues that Mr. Horenstein raised looking for some flexibility if that's the desire of the Commission.

VARTANIAN: Okay. I would then suggest that we do -- without making a motion I would propose that we do go ahead with County staff's recommendation including the

deletion of Number 1 under 9.3.5, but make a very strong request for the County Commission to put a citizens advisory committee together to include staff and the development community and to come up with an intelligent obviously way to approach this issue because I do think we need to keep industrial and job, family wage job opportunities available, but we also do need retail from time to time and I think we just don't have enough time right now to give that consideration enough adequate opportunity.

ALLEN: A little bit of a clarification on that. The way I read this is that you cannot choose all of them because some of them are contradictory to each other so I believe that we have to choose only one option here and recommend that for approval.

DELEISSEGUES: I think we can combine them. You can combine elements.

VARTANIAN: Well, actually I --

ALLEN: Because when you look at 1 of course it says "and," when you look at 2 says "when circumstances have changed" which is contradictory to "and." When you look at 6 it says "to minimize inconsistencies as discussed above, recommend a change to delete the criteria" which is to be approved, which again contradicts Number 1. And then I'm looking at the other ones and they're really contradictory. So to me if you go with Alternative Number 1, you cannot really incorporate the other alternatives as part of this same option.

VARTANIAN: I guess what I was getting at is I would recommend that we go with Number 1 which is assumed what this is --

ALLEN: Okay. Thank you.

VARTANIAN: -- and with a strong recommendation to consider 2 and 3.

ALLEN: 3 and 4.

VARTANIAN: I'm sorry, 3 and 4, thank you, in this work group or whatever committee that gets put together.

ALLEN: Okay. Thank you for answering that.

DELEISSEGUES: Any more?

VARTANIAN: No. Thank you.

DELEISSEGUES: I guess my take on it would be that it's not always a panacea to have industrial land. Dollar Tree out by Ridgefield might be a good example where I think they have four jobs per acre and a tremendous amount of truck traffic in and out of there, which truck traffic's probably one of the biggest problems with the freeway capacity, and it looks to me like the plans that are along that corridor for more industrial

is going to really increase more distribution centers which will increase more truck traffic and if there's anything that takes capacity away from a freeway system it's 18-wheelers. So the cost of development and the improvement of a transportation system with the, and I don't see a whole lot of money frankly coming from the huge development there. Dollar Tree distribution center, it must take up 20 acres at least, maybe more than that, it doesn't produce very many jobs and I wouldn't think that they'd pay very high because most of it's warehouse space, loading and unloading trucks.

So I don't think that necessarily having industrial land is all the panacea that some people might think it is. I think people always have in mind a Kyocera, Wafer Tech, Hewlett-Packard, some of the high tech industries that really do produce quite a bit of revenue. And I'll have to say too that we won't have those if we don't have the land to accommodate them, but I sure think that we ought to take a hard look at the economics of the proposal and consider that very strongly when we make a land use decision and not only how it affects the particular piece of land that we're talking about, but how it's going to affect the community, revenue, transportation, the surrounding people, residential, business, whatever it might be. I think the County really does need the flexibility to take a case-by-case look at some of these things and make a reasoned decision rather than have some restrictive policy that doesn't allow what would otherwise look to be a common sense solution to a problem.

You know, I think that's the problem we're in now, I think that's why we're taking another look at this policy because it has tied the hands in a number of cases where something came in that looked pretty reasonable, but as was mentioned by some of the people that spoke tonight the staff recommendation had to be denial because it didn't meet the policy or it was in conflict with the policy. So my thinking would be we change it to "or," I think that was in two or three of the recommendations instead of "and," but there's the no net loss of jobs ought to be weighed against the no net loss of land. If we have high paying jobs without taking up a lot of the land inventory, that ought to be weighed against taking up a lot of the land inventory with very few jobs. And I think there's some examples of both and if it were me making the decision, I'd go with the best of the two, you know, I'd like to have the leeway to be able to do that.

And I think the replacement thing is kind of a -- that's a barrier that you can't overcome because I don't think the land's out there in the first place. If it is it was probably not zoned properly in the first place and we've had all kinds of testimony of people that have come in and said they just cannot find replacement land for the development, either for the reasons that staff has outlined, they either can't find a willing seller or they can't find any land that would ever be economically developed as industrial land. We've got a lot of tertiary industrial land out there waiting for the infrastructure to support it and no money to build the infrastructure to support it and the land isn't going to be used for anything until that happens and I don't know how far out that's going to be. So with that I would entertain a motion.

VARTANIAN: Can I get one point of clarification?

DELEISSEGUES: Sure. Of course.

VARTANIAN: I'm sorry. Question for staff again. Nothing in this proposed recommendation precludes industrial land to being used or converted into employment center lands or does industrial land have to stay industrial and employment center land stay employment center land?

LOWRY: The current policy allows you to switch between the two. Staff has raised an issue as to whether that ability which was added to the plan in 2004 was a mistake, was that really what was intended. So I think one of the issues that we're looking for a recommendation from the Commission for is do you want to have a hard policy that is separately applied to industrial and employment center or should they be -- should you be able to freely go between the two.

VARTANIAN: Okay. Then I'm not sure if I misspoke earlier or not. I would support this recommendation from staff if you could freely interchange industrial and employment center lands.

LOWRY: Then you don't want to make it, you would recommend no change in Policy 9.3.5 in regard to that issue.

VARTANIAN: In regard to that issue, yes.

LOWRY: Right.

VARTANIAN: My concern is that the land goes to the residential or commercial.

LOWRY: If I am hearing --

VARTANIAN: Thank you.

LOWRY: -- what I think I heard from the Commission so far there are it sounds like three Commission members would support recommending that 9.3.5 be, first, not changed in terms of the ability to go from industrial to employment center or back and forth. Second, and this is an assumption on my part, but the criteria that, that the Criteria Number 1 be deleted because you can't -- if Criteria 1 stays there and we leave -- we change the "or" to an "and" then it becomes an unworkable policy. And third, that the "or" become an "and" or go back to what it was before 2004 and become an "and."

VARTANIAN: Yes. That's my -- at least that's what I'm after. As long as we can go between commercial, I'm sorry, between industrial and employment center lands is my biggest concern.

LOWRY: Yes. And then ancillary to those changes a recommendation that some sort of a process be instituted to further look into this whole issue?

VARTANIAN: Exactly. Yes.

ALLEN: And to incorporate the 3 and 4 because I think some of the items in 3 and 4 are very applicable to some of the concerns that some of the speakers tonight had and also that I personally have as well.

ORJIAKO: That's correct, that's why we made the -- we provided the option.

ALLEN: Yeah. So I guess we're back to the point do we have to make two separate motions or is it one motion incorporating all of it?

LOWRY: Either one. It's the pleasure of the Commission.

BARCA: I'd be thrilled just to hear you put something on the table. What would that look like?

ALLEN: If I was to put something on the table it would look like this and that would say that we recommend to the Board of Commissioners to adopt Option Number 1.

DELEISSEGUES: You're making a motion; correct?

ALLEN: If I was going to put it on the table.

BARCA: Using the word "if" keeps you from making this a motion.

ALLEN: Okay. All righty, let me make a motion then. I'll step out of the circle. I recommend or I would like to recommend to the Board of Commissioners that they adopt Option Number 1 with the proviso that Option Number 3 and Number 4 will be studied in the future, near future, either through direction to the staff or through a work group and combination Number 3, or in combination Number 3 which would be the staff and the work group.

LOWRY: And then just one issue of clarification. Option 1 from the staff report doesn't expressly include deleting Criteria 1 but looking at the whole staff report it's implicit and so I'm assuming your motion would include deleting Criteria 1?

ALLEN: That's not the way I read Option Number 1.

VARTANIAN: No, Criteria 1 up top.

ORJIAKO: In my presentation I indicated that we do recommend that in Policy 9.3.5 Criteria 1 be deleted, so we're hoping that your motion will include that.

LOWRY: That Criteria Number 1 is really a throwback to '97 when this policy was originally adopted and dealt only with tertiary industrial land. Once the policy was broadened to include all industrial, then that criteria didn't make a lot of sense anymore.

BARCA: Will you please --

ALLEN: Yes, in that case that does include that.

BARCA: Will you please for the record read Criteria 1 as it's stated.

LOWRY: Criteria 1 reads "such lands cannot feasibly be improved to usable" or, excuse me, it currently reads "cannot feasibly be improved to prime industrial status due to physical conditions such as topography, critical lands, street patterns, public services, existing lot arrangements," et cetera.

BARCA: And so the motion strikes Criteria 1?

LOWRY: Correct. And which would leave the two criteria. First, that a non-industrial non-employment center designation is more appropriate, and, second, that and there would be an "and" second rather than "or" second that replacement site be provided.

BARCA: Okay. So that clarifies that.

DELEISSEGUES: Does that sound like your motion?

ALLEN: I'm still concerned -- okay. If we strike that Criteria Number 1, then I'm concerned that there's just about any reason that you could state to use the argument that you could not feasibly improve tertiary or the secondary industrial or employment center land and I'm a little bit concerned that if that is the case, then we would not encourage improvement or redevelopment. Is that what would happen if that particular criteria was stricken, Criteria 1?

LOWRY: Well, one of the difficulties with that criteria is it assumes you're currently dealing with non-prime industrial and again that's because as originally enacted this policy only dealt with tertiary. If you leave that policy, that Criteria Number 1 in place, then there would be virtually no incentive to ever try to convert even under the most compelling circumstances because presumably if you can improve a site so it's prime industrial you're going to, that's what you're going to want to make some other higher use of the property anyway.

So remembering that what makes a property prime under the criteria is it has utilities, it has road services and critical areas have been dealt with, well, that would have to be done for any other use anyway. So if you're saying you can't deal with those other uses or those other, you can't deal with utilities or you can't get a road in there, then there's -- you're really taking off any occasion in which somebody would want to try to employ the policy for conversion and it becomes a rather meaningless policy.

ALLEN: Then in that case, yes, that does make sense.

DELEISSEGUES: Okay. Do you want to restate the motion? Can somebody restate

the motion?

LOWRY: I heard the **motion** to be to recommend Option Number 1 in the staff report and I think to include deleting Criteria Number 1 from Policy 9.3.5 and to recommend that a process be instituted to further study Options --

ALLEN: 3 and 4.

LOWRY: -- 3 and 4.

ALLEN: Combined plus the employment ratios as well because the employment ratios were not discussed as far as I can see and our fluctuating market conditions, but the rest, that is my motion.

VARTANIAN: As a matter of parliamentary procedure when does one make a friendly amendment to or offer a friendly amendment?

LOWRY: After you have a second.

BARCA: Yeah, you need a second first.

DELEISSEGUES: Do we have a second?

BARCA: I'm still working through it myself. We strike 1.

LOWRY: The only changes to the policy then would be to 9.3.5 would be to strike Criteria Number 1 and to change the "or" before Criteria 3 to an "and" and then those two would be renumbered 1 and 2 rather than 2 and 3.

BARCA: Okay. But we would retain Criteria 2 which states a non-industrial or non-employment center designation and zoning is more appropriate in light of new circumstances and applicable planning policy and after other replacement site within the existing UGA of equal or greater industrial potential have been designated industrial. So we are allowing a particular site to go off as long as we're able to substitute a site of equal or greater industrial potential?

ORJIAKO: Yes.

BARCA: So that's what we're down to then?

LOWRY: Yes.

ORJIAKO: Yes.

BARCA: Okay. Well, I understand it now. I'll **second** it.

VARTANIAN: Can I offer my friendly amendment now?

DELEISSEGUES: You may.

VARTANIAN: Okay. I would like to amend the motion to include the requirement to involve citizens and staff and the development community in this work group as opposed to just staff. And secondly I guess another amendment --

DELEISSEGUES: No.

VARTANIAN: No?

DELEISSEGUES: It's just part of the amendment.

VARTANIAN: Okay, part of the amendment. The language in 9.3.5 (2) says a non-industrial or non-employment center designation and zoning is more appropriate in light of a new circumstance, but it says in (3) after other replacement sites within the existing UGA of equal or greater industrial potential, can we change that to say "industrial" or "employment" just to be consistent through the whole paragraph?

LOWRY: Yes.

ORJIAKO: Yes.

DELEISSEGUES: Are you in agreement?

ALLEN: Yes, because I do believe that the work group and the staff should be coordinating together at the same time so we don't have two different directions going on at the same time.

DELEISSEGUES: Ron, are you in agreement with the second?

BARCA: I agree.

DELEISSEGUES: Okay. We have a motion and a second as stated by Mr. Lowry. Any discussion, any further discussion on it? Can we have roll call, please.

ROLL CALL VOTE

BARCA: AYE

ALLEN: AYE

VARTANIAN: AYE

DELEISSEGUES: I vote NO and the reason is I just don't think it's workable to have that replacement of the industrial land.

BARCA: All right. What's next?

DELEISSEGUES: What's next is any old business?

OLD BUSINESS

VARTANIAN: Yeah. There was discussion last week about a certain railroad work group being put together.

DELEISSEGUES: I think that's later.

VARTANIAN: Later. Okay.

ORJIAKO: I think that will be later with the Chair working with Marty Snell, I imagine that they will come up with time --

DELEISSEGUES: Right. I think Steve was going to put something together as a recommendation on the membership of the committee?

ORJIAKO: Yes.

VARTANIAN: Okay.

DELEISSEGUES: The only thing I'd have under old business is as you all know that Lonnie Moss has resigned from the Planning Commission, I think as a group here we're going to miss him greatly and just like to say for the record that I think the Planning Commission will be hard-pressed to find a candidate to fill his shoes.

VARTANIAN: Here. Here.

NEW BUSINESS

None.

COMMENTS FROM MEMBERS OF THE PLANNING COMMISSION

DELEISSEGUES: Any other comments from members of the Planning Commission? Maybe that would have been a more appropriate time to wish Lonnie well in his future endeavors.

BARCA: You did good, Dick, I think that sums it up.

ADJOURNMENT

DELEISSEGUES: Okay. Then we'll stand adjourned. Thank you staff. Thank you, Rich.

The hearing adjourned at 10:30 p.m.

All proceedings of tonite's hearing can be viewed on the Clark County Web Page at:

[http:// www.clark.wa.gov/longrangeplan/commission/06-meetings.html](http://www.clark.wa.gov/longrangeplan/commission/06-meetings.html)

Proceedings can also be viewed on CTV on the following web page link:

<http://www.cityofvancouver.us/cvtv/>

Chair

Date

Minutes Transcribed by:

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